

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
EASTERN DIVISION

FILED BY 8 D.C.  
05 APR 13 PM 1:24  
ROBERT R. DI TROIA  
CLERK OF U.S. DIST. CT.  
OF TN-JACKSON

DOROTHY BARRON,

Plaintiff,

vs.

No. 04-1079-T/An

UNIVERSITY OF TENNESSEE,

Defendant.

ORDER DENYING MOTION TO PROCEED IN FORMA PAUPERIS

On April 12, 2005, Plaintiff Dorothy Barron filed a motion for leave to proceed on appeal in forma pauperis. The motion is DENIED.

On April 30, 2004, almost one year ago, the court entered an order dismissing the action on the ground that the complaint presented claims that were barred by the Eleventh Amendment and failed to state a claim upon which relief may be granted. The complaint was dismissed pursuant to Fed. R. Civ. P. 12(h)(3) and 28 U.S.C. §§ 1915(e)(2)(B)(ii) and (iii). In that order, the court found that an appeal would not be taken in good faith. Twenty-eight U.S.C. § 1915(a)(3) provides that an appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith. The court advised Plaintiff that:

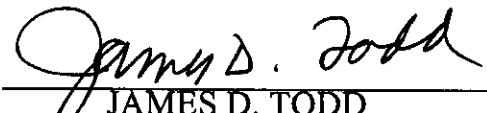
The Sixth Circuit Court of Appeals decisions in McGore v. Wigglesworth, 114 F.3d 601, 612-13 (6th Cir. 1997); Callihan v. Schneider, 178 F.3d 800 (6th Cir. 1999), apply to any appeal filed by the plaintiff in this case. If plaintiff files a notice of appeal, she must pay the entire \$255 filing fee required by 28 U.S.C. §§ 1913 and 1917, or file a request for leave to appeal in forma pauperis by filing "within thirty days after service of the district court's decision as prescribed by Fed. R. App. P. 24(a)(4), a motion with [the Sixth Circuit] for leave to proceed as a pauper on appeal." Callihan, 178 F.3d at 803. Under Callihan, if the appellant does not within this thirty-day period

either file the required motion or pay the filing fee, the appeal will be dismissed for want of prosecution.<sup>1</sup> If the appeal is dismissed, it will not be reinstated once the fee is paid. Id. at 804.

Judgment was entered on May 4, 2004.

For the reasons set forth in the previous order and because Plaintiff's motion has been filed more than thirty days after judgment was entered, the court DENIES Plaintiff's motion to proceed on appeal in forma pauperis.

IT IS SO ORDERED this 13<sup>th</sup> day of April, 2005.

  
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JAMES D. TODD  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> The district court may extend this deadline one time by thirty days if the motion to extend is filed before the expiration of the original deadline. McGore, 114 F.3d at 610.



## Notice of Distribution

This notice confirms a copy of the document docketed as number 8 in case 1:04-CV-01079 was distributed by fax, mail, or direct printing on April 18, 2005 to the parties listed.

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Dorothy Barron  
1450 N. Market St. #407  
Paris, TN 38242

Honorable James Todd  
US DISTRICT COURT